

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**EDDIE J. HAYNES,
PLAINTIFF,**

v.

**CITY OF MONTGOMERY,
DEFENDANT.**

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CASE No. 2:06-CV-1093-WKW

**DEFENDANT'S RESPONSE TO PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
AND FOR EXTENSION OF TIME**

COMES NOW Defendant City of Montgomery and in response to Plaintiff's Motion to Compel Discovery and For Extension of Time states unto the Court the following:

1. Counsel for the Defendant received Plaintiff's Second Request for Production of Documents on October 25, 2007. However, Counsel was not aware of the request until Plaintiff's letter dated December 4, 2007, was received. Defendant's counsel apologizes to the Court and Plaintiff's counsel for the error and oversight.

2. Defendant's Responses to Plaintiff's Second Request for Production of Documents were faxed to Plaintiff's counsel this morning, Friday, December 7, 2007. Upon receiving notice of the oversight, Defendants have tried have made a good faith effort to respond as quickly as possible. However, some of the individuals providing the information to respond to Plaintiff's request were not available. Defendant's counsel did not receive all of the information necessary to respond to Plaintiff's request until this morning. A copy of Defendant's Responses is attached as Exhibit A.

3. Defendant does not agree that they have waived the right objections to Plaintiff's Second Request for Production of Documents. Defendant has tried to comply with all requests of Plaintiff with the exception of those requested in request #3. Defendant does not agree that Plaintiff is entitled to the fitness for duty evaluations of individuals not a party or otherwise involved in this lawsuit.

4. Defendant does not agree that the documents requested in Plaintiff's Second Request for Production of Documents are relevant to Plaintiff's case. However, Defendants do not object to Plaintiff having twenty-one days from today to respond to Defendant's Motion for Summary Judgment.

Submitted this 7th day of December, 2007.

/s/Kimberly O. Fehl
Allison H. Highley (HIG024)
Kimberly O. Fehl (FEH001)
Attorneys for Defendant

OF COUNSEL:
Legal Department
City of Montgomery
Post Office Box 1111
Montgomery, Alabama 36101-1111
(334) 241-2050
(334) 241-2310 (fax)

CERTIFICATE OF SERVICE

I hereby certify that foregoing has been served upon the following by first class
United States Mail on this 7th day of December, 2007:

Gerald L. Miller
REDDEN, MILLS & CLARK, LLP
940 Financial Center
505 North 20th Street
Birmingham, Alabama 35203

/s/Kimberly O. Fehl
Kimberly O. Fehl (FEH001)
Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
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EDDIE J. HAYNES,
PLAINTIFF,

v.

CITY OF MONTGOMERY,
DEFENDANT.

CASE NO. 2:06-CV-1093-WKW

**DEFENDANT'S RESPONSE TO PLAINTIFF'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS**

COMES NOW Defendant City of Montgomery and in response to Plaintiff's Second Request for Production of Documents states the following:

1. Any and all documents discussing or relating to the alleged practice of the Montgomery Fire Department of looking to the National Fire Protection Association Rules and Regulations as a guideline for best practices, as stated in Defendant's Amended Response to Plaintiffs First Interrogatories (Amended Response #4).

RESPONSE: Defendant objects to this interrogatory as it is overbroad, unduly burdensome and unlimited in scope or time. Notwithstanding the foregoing objections, NFPA codes and standards are generally accepted as a professional standard for fire service. Additionally, see attached.

2. All documents, including policies, memoranda, and correspondence, which discuss the National Fire Protection Association Rules and Regulations.

RESPONSE: See attached.

3. All documents in your possession relating to the twelve fit for duty evaluations referred to in the attached November 10, 2005 letter from Kimberly O. Fehl to Sandra



Figgers, including all documents reflecting the reasons for those fit for duty evaluations, and the results of those fitness for duty evaluations.

RESPONSE: Defendant objects to this interrogatory as seeks confidential information of individuals that are not parties or are otherwise involved in this lawsuit. Notwithstanding the foregoing objections, the Risk Manager is advised by a department director when they would like an employee to receive a fitness for duty assessment. However there are no documents reflecting why the request is being made kept in the Risk Management office. The Risk Manager, however, does receive a copy of the fitness for duty evaluation from the physician after it is completed.

4. The City of Montgomery Motor Vehicle Operation Policy and all amendments thereto in effect from 2000 through 2006.

RESPONSE: See attached.

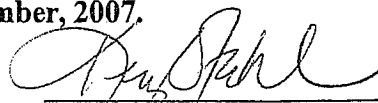
5. All documents reflecting procedures for certifying employees of the City of Montgomery to operate City vehicles and all amendments to such procedures for the period from 2000 through 2006.

RESPONSE: See attached.

6. The City of Montgomery Drug and Alcohol Abuse Policy and all amendments thereto in effect from 2000 through 2006.

RESPONSE: See attached.

Submitted this 17th day of December, 2007.



Allison H. Highley (HIG024)

Kimberly O. Fehl (FEH001)

Attorneys for Defendant

OF COUNSEL:

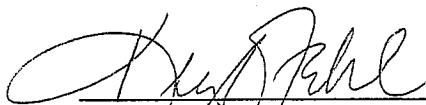
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CERTIFICATE OF SERVICE

I hereby certify that foregoing has been served upon the following by first class

United States Mail on this 7th day of December, 2007:

Gerald L. Miller
REDDEN, MILLS & CLARK, LLP
940 Financial Center
505 North 20th Street
Birmingham, Alabama 35203

A handwritten signature in dark ink, appearing to read 'Kimberly O. Fehl', is written over a horizontal line.

Kimberly O. Fehl (FEH001)
Of Counsel